IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 11985 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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GUJARAT STATE ROAD TRANSPORT CORPORATION

Versus

RAMESH L CHAUDHARI

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Appearance:

MR HARDIK C RAWAL for Petitioner

MR BG JANI for Respondent

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CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 07/09/2001

ORAL JUDGEMENT

#. Rule. Mr.Jani waives service of rule for the respondent. By consent of the parties, the matter is taken up for final hearing today.

#. The concerned workman was serving as S.T.Conductor and he was subjected to the departmental proceedings on the ground that he has not issued the tickets to a group of five passengers, plus another group of three other passengers. Thus, till the time of rechecking, in all, from eight passengers fare was not collected and tickets were also not issued to them. The defence of the employee was that because of heavy rush in the bus, he could not collect the fare from the said passengers and that he has not received any amount. However, on conclusion of the inquiry, the workman has been removed from service. He, thereafter, raised the industrial dispute which was numbered as Reference (LCS) No.133 of 1998.

#. The Labour Court came to the conclusion that the penalty of dismissal, in the facts of the case, is on excessive side. Mr.Jani stated that this is only the first incident in the entire service career and that it is not the case wherein any amount was found from the pocket of the workman. In his submission, therefore, it was at least the case of negligence on the part of the petitioner as he could not reach upto those passengers for the purpose of issuing tickets. In any case, the Labour Court, after considering the evidence on record, came to the conclusion that the penalty of dismissal is on higher side, and that the workman was ordered to be reinstated in service without back-wages and has been subjected to withholding of two increments with future effect. It is not in dispute that the concerned workman has not issued the tickets to the passengers at the relevant time. Now, the concerned workman has already been reinstated in service. Therefore, the question which requires consideration is, whether the penalty substituted by the Labour Court is suitable or not.

#. Mr.Rawal argued that considering the misconduct, penalty awarded by the Labour Court is on very lower side and that the workman should be subjected to the penalty on higher side as it may set an example that in future, he may not be tempted to repeat such type of incident again.

#. Considering the facts and circumstances of the case, I am of the opinion that the concerned workman was totally negligent in not issuing the tickets to the concerned passengers which has resulted in monetary loss to the Corporation. In that view of the matter, penalty of withholding of two increments with future effect should be substituted by withholding of four increments with future effect. It is required to be noted that this

order may not be considered as a precedent in other cases. In view of the peculiar facts of this case wherein no amount was found from the pocket of the concerned employee and also in view of the fact that this was the first incident in the entire service career of the respondent workman, the present order is passed. Considering the fact that now the concerned employee has already been reinstated in service by the Corporation, no useful purpose would be served if after such a long time, he is asked to be removed from service. In this background of the facts, the present order is passed. The award of the Labour Court is modified to the aforesaid extent and that instead of withholding of two increments with future effect, concerned employee should be subjected to withholding of four increments with future effect.

#. Rule is made absolute to the aforesaid extent with no order as to costs.

(P.B.Majmudar,J)
(pathan)